

APPEAL NO. 041695
FILED SEPTEMBER 2, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 17, 2004. The hearing officer determined that the respondent (claimant) sustained a compensable low back injury on _____, and that the claimant had disability from May 2 through July 9, 2001, and from July 25, 2001, through February 1, 2002, but not from July 10 through July 24, 2001.

The appellant (carrier) appealed, contending that the claimant had not sustained a new injury on _____, that her symptomology was due to a 1999 (or 1998) injury, and that because the claimant did not have a new injury she did not have disability. The file does not contain a response from the claimant.

DECISION

Affirmed.

The claimant, a store coordinator, testified that she felt a "knife" like back pain on _____, as she was bent over picking something up. It is undisputed that the claimant had sustained a prior work-related low back injury on (prior date of injury), and that the claimant had returned to work in March 2000. The crux of the case is whether the claimant sustained a new injury on _____, or whether the pain she felt was merely a continuation or flare up of the 1999 injury. There was conflicting evidence and opinions. The hearing officer in the Background Information section gives her reasons for deciding the case in the claimant's favor.

The disputed issues in this case involved factual questions for the hearing officer to resolve. Section 410.165(a) provides that the hearing officer, as the finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. It is for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Chris Cowan
Appeals Judge